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Federal Communications Commission
Office of Secretary

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November 29, 1999

The Honorable William Kennard **EX PARTE OR LATE FILED**
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

EX PARTE PRESENTATION: WT Docket No. 99-168

Dear Chairman Kennard:

The Dataradio Group of Companies ("DATARADIO"), by its attorneys, and pursuant to Section 1.1206 (b) of the Commission's Rules hereby submits this *ex parte* filing in the above-captioned proceeding (Notice of Proposed Rulemaking, WT Docket No. 99-168, FCC 99-97, released June 3, 1999, "Notice"). As a leading manufacturer of data equipment for private wireless and public safety users, DATARADIO supports the creation of a new class of "Band Manager" licensee as proposed by the Commission in its Notice (Notice, at para. 15) and endorsed by the Industrial Telecommunications Association and Motorola in this proceeding. As set forth below:

- DATARADIO urges the Commission to allocate 6 MHz of spectrum in the 746-806 MHz band for licensing to a "Band Manager" through the competitive bidding process.
- The rules should require the Band Manager to distribute spectrum *solely* to private land mobile users.
- In light of the rapidly growing demand for data operations by the private land mobile user community, and the current shortage of available spectrum in other bands, the Commission should further require that one-half of this allocation be made available by the Band Manager for data-only applications.
- As demonstrated by the long history of cooperation between the private land mobile and public safety communities, a Band Manager serving the needs of private land mobile users will also best protect the Public Safety Community from harmful interference.
- The FreeSpace plan should be rejected because it fails to account for the needs of private land mobile users and because it will not provide adequate protection to mobile public safety users.

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STATEMENT OF INTEREST

The Dataradio Group of Companies consists of Dataradio, Inc., Dataradio Corporation and Dataradio COR Ltd. The Dataradio companies are engaged in the development, manufacture and implementation of wireless products and networks that support a wide range of data applications for private wireless users and Public Safety entities. DATARADIO is the leading provider of mobile computing network infrastructure for private users in the United States.

DATARADIO works closely with over 100 application software and middleware partners and all major mobile radio manufactures to supply a full range of services and products for its customers. DATARADIO also holds the distinction of having invented mobile radio computing. The projects accomplished by DATARADIO and its partners range from hundreds of small systems having as few as several cars to many multi-site systems encompassing up to several thousand vehicles.

In addition to its sales to the Public Safety Community, DATARADIO manufactures and sells mobile data systems for other private wireless customers, including "critical mission users", such as Utility Companies and those entities engaged in Land Transportation and Energy Production and Transmission. Because of its significant involvement in both the private wireless and Public Safety communities, DATARADIO is concerned that the rules adopted in this proceeding accommodate the critical needs of both groups. The Commission should also be aware that DATARADIO is capable of and intends to market 700 MHz data equipment to private wireless users on a near term basis if 700 MHz spectrum becomes available for private wireless use.

DATARADIO SUPPORTS A "BAND MANAGER" LICENSEE TO ADMINISTER SPECTRUM FOR PRIVATE LAND MOBILE USERS

DATARADIO supports the allocation of 6 MHz of spectrum in the 746-806 MHz band to be administered by a "Band Manager" for use by private land mobile users. Based on its extensive experience with the private user community, DATARADIO is keenly aware of the growing communications requirements of these specialized users. These needs, especially for data requirements, are not being met on commercial systems.

A new allocation of spectrum specifically tailored to the private land mobile community is well overdue. As the needs of these users continues to grow the availability of spectrum continues to decrease. Private radio users have suffered from a lack of spectrum allocations for far too long. While the Commission has allocated several hundred MHz of spectrum for Commercial Mobile Radio Service operators since the inception of auctions there has not been an allocation for private radio mobile users for almost fifteen years.

This is particularly disadvantageous to users who need additional capacity to implement state-of-the-art technology data systems to meet the needs of their businesses.

While some CMRS operators offer data services, many of DATARADIO's customers find that these services do not meet their specific needs for reliability, cost or coverage. In light of the growing data needs of business and industrial users, DATARADIO urges that any allocation to a Band Manager pursuant to competitive bidding make clear that the administration of this 700 MHz spectrum by the Band Manager allow for data-only applications. Data applications are a very efficient use of spectrum, and should be accommodated by the Band Manager in dedicated data-only narrowband channels.

Due to the explosive growth of data and the expanding need among business and industrial users for data applications to replace voice, DATARADIO urges the Commission to set-aside one-half of the private land mobile allocation for data-only channels. DATARADIO further believes that 25 KHz channels are appropriate for optimal data use of this spectrum. This is a similar approach to that being used in the Public Safety portion of the 700 MHz spectrum, where four 6.25 KHz channels can be combined to equal a 25 KHz channel, the most effective bandwidth for transmission of narrowband data.

In addition to offering much needed spectrum for private users, the use of a Band Manager to service private land mobile users should provide significant protection to adjacent public safety users. This is evidenced by the long history of cooperation between coordinators in the public safety and private land mobile communities. This cooperation has been demonstrated in the 470-512 MHz and 800 MHz bands and especially in relation to interservice sharing issues. DATARADIO expects that this spirit of cooperation between the private user "Band Manager" and the public safety coordinators would continue at 700 MHz.

This cooperation to minimize interference issues is particularly important to DATARADIO, as the company intends to also offer data communications equipment to public safety customers in the 700 MHz band. Allocating 6 MHz to private mobile radio in this proceeding would expand DATARADIO's market and provide economies of scale beneficial to both public safety and private customers.

THE FREESPACE PLAN SHOULD BE REJECTED BECAUSE IT DOES NOT PROVIDE FOR THE NEEDS OF PRIVATE LAND MOBILE USERS AND BECAUSE IT DOES NOT ADEQUATELY PROTECT PUBLIC SAFETY USERS IN ADJACENT BANDS

DATARADIO is aware that a company called FreeSpace has proposed an alternative plan which would allocate this 6 MHz of spectrum primarily for consumer or residential use. This proposal should be rejected because it fails to provide for the growing needs of the private land mobile community as described above. The FreeSpace plan is little more than yet another allocation of CMRS service.

In addition, the plan fails to adequately protect public safety mobile users in adjacent 700 MHz spectrum and should be rejected by the Commission on that basis

alone. At a recent meeting of the National Coordination Committee (NCC) in New York, which DataRadio attended, the FreeSpace representative publicly stated that while its proposal protects public safety base stations, a plan to protect mobile and portable units *has not yet been developed*.

Given the public safety community's heavy reliance on mobile and portable units, the FreeSpace plan is not entitled to serious consideration by the Commission for the 700 MHz band. Should the Commission believe that the services FreeSpace proposes have merit, a separate rulemaking should be initiated to identify potential alternative bands.

DATARADIO looks forward to the Commission's decision in this proceeding and the opportunity to provide much needed data equipment to the private land mobile user community in the near term.

Sincerely,

A handwritten signature in black ink, reading "Albert J. Catalano". The signature is written in a cursive, flowing style.

Albert J. Catalano

cc: Commissioner Susan Ness
Commissioner Michael Powell
Commissioner Gloria Tristani
Commissioner Harold Furchtgott-Roth
Thomas Sugrue, Chief, WTB
Kathleen O'Brian Ham, Deputy Chief, WTB
D'Wana Terry, Chief, Public Safety & Private Wireless
Jeanne Kowalski, Deputy Chief, Public Safety & Private Wireless
Michael Wilhelm, Public Safety and Private Wireless